IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.245 OF 2005
IN
WRIT PETITION NO.5221 OF 2004

Ganesh Ramchandra Naik .. Appellant.
Vs.
Sanjaykumar Damodar
Surve and Others .. Respondents.

Dr.V.K.Choudhary with Dr.M.Shah Alam Khan for the appellant.

Mr.Samir Vaidya with Mr.Kishore Shriyan for respondent no.1.

CORAM : SMT.RANJANA DESAI
& D.B.BHOSALE, JJ.

DATED : 12TH JANUARY, 2006

P.C.:

. Heard learned counsel for the parties.

2. The appeal impugns the order dated 20th September, 2005 passed by the learned Single Judge of this Court in Writ Petition No.5221 of 2004. The challenge in the writ petition was to the order passed by the Minister for Cooperation setting aside the sanction to prosecute the appellant on the ground that he was not given adequate opportunity of being heard before granting sanction. The learned Single Judge, in our opinion, has rightly rejected this submission and

set aside the Minister's order on the basis of two judgments of the Supreme Court wherein it is stated that the grant of sanction being administrative act the need to provide an opportunity of hearing to the accused before according sanction does not arise and at the stage of granting of sanction the accused need not be heard. The order of the learned Single Judge, in our opinion, therefore, is a well reasoned order. No interference is necessary with it. Apart from the fact that we are of the firm opinion that there is no merit in the appeal, we also feel that it is not maintainable. In the title of the petition, the petitioner has stated that the petition is filed under Article 227 of the Constitution of India. In the body of the petition in paragraph 7, the petitioner has again repeated that he is approaching this Court under Article 227 of the Constitution of India. Besides this the averments and prayers also indicate that it is a petition under Article 227 of the Constitution of India. The letters patent appeal is therefore rejected.

(D.B.Bhosale, J.) **(Ranjana Desai, J.)**